HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.16805 of 2007

Date: 24.08.2007

Between:

K. Venkatewarlu

....Petitioner

and

The Executive Engineer, Irrigation and
Command Area Development (I & CAD)
Department, Nellore North (NN) Division,
Kavali, Nellore District and another

....Respondents

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O R D E R:

The petitioner was awarded the contract work of renovation of tank bund of Linga Reddy Gunta Tank in Rudrakota Village, Kavali Mandal, Kavali, Nellore District. The work involves excavation at some places and erection of bunds at different places. It is stated that the earth excavated during the course of the work is utilized in the bund formation and no transfer of earth, as such, has taken place.

The grievance of the petitioner is that the respondents are levying seigniorage fee on the earth so used, contrary to the terms of the agreement. He claims to have made a representation dated 13.7.2007 to the Executive Engineer-the 1st respondent herein and complains that no action has been taken thereof.

Heard the learned counsel for the petitioner and the learned Government Pleader for Irrigation.

The occasion to levy seigniorage fee on earth arises whenever such material is utilized in the contract by bringing it from outside. In case the petitioner had utilized the earth having

excavated from any different place, he would be under obligation to pay the seigniorage fee for the corresponding quantity. On the other hand, if the earth is recovered during the course of the very work and is utilized at different place, much would depend upon the terms of the contract.

The assertion of the petitioner that the contract does not provide for levy of seigniorage fee on the earth, which is recovered in the work itself, needs to be examined. Inasmuch as the work is time bound, the representation of the petitioner needs to be considered without further loss of time.

The writ petition is disposed of directing the 1st respondent to consider the representation dated 13.7.2007 made by the petitioner and pass appropriate orders thereon, within a period of (6) six weeks from the date of receipt of a copy of this order. No order as to costs.

L.NARASIMHA REDDY, J

24th August, 2007.
cvm